

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Carlin Powell,

Plaintiff/Petitioner,

v.

Warden Jay Forshey,

Defendant/Respondent.

Case No. 1:21-CV-01591

Judge James G. Carr

Magistrate Judge Carmen E. Henderson

ORDER

This is a state prisoner habeas corpus case filed by Petitioner, Carlin Powell, under 28 U.S.C. § 2254. (Doc. 4). The case was originally filed in the Southern District of Ohio and transferred to this jurisdiction on August 16, 2021. (Doc. 2, Doc. 3). Respondent, Warden Jay Forshey, filed a Return of Writ on January 27, 2022. (Doc. 13). Petitioner filed a traverse on March 1, 2022 (Doc. 14; 16-1). Two days later, Respondent filed a Reply. (Doc. 15).

The matter was automatically referred to the United States Magistrate pursuant to Loc. R. 72.2. on October 28, 2021. (Non-Document Order of same date). After a series of challenges in the District Court in the form of motions, objections, and attempted appeals, Magistrate Judge Carmen E. Henderson filed her Report & Recommendation, in which she recommends denial of the Petition. (Doc. 49).

The Petitioner has filed Objections to the Report & Recommendation. (Doc. 50). The Respondent has not filed a response thereto.

Magistrate Judge Henderson, in a thorough explication of the record and applicable law, recommends denial of the Petition. On consideration of the Plaintiff's Objections, I conclude that the Report & Recommendation is correct in all respects.

Simply put: Magistrate Judge Henderson concluded that each of the Petitioner's four Counts was not subject to habeas review because of his procedural default. (Doc. 49, pgID 2419, 2438-46).

Given the thoroughness of Magistrate Judge Henderson's review, it would serve no useful purpose for me simply to repeat point by point the conclusions that she has so ably and entirely correctly reached in her Report & Recommendation.

Suffice to say, none of the Petitioner's Objections undercuts - in any way - the Report & Recommendation and its reasoning and rationale.

I also agree with Magistrate Judge Henderson that I should not issue a Certificate of Appealability. (Doc. 49, pgID 2446-7).

Finally, jurists of reason could not rationally dispute the rationale and reasoning of the Magistrate Judge's Report & Recommendation.

According, it is hereby

ORDERED THAT:

1. The Petitioner's Objections to the Report & Recommendation be, and the same hereby are overruled;
2. The Report & Recommendation of Magistrate Judge Carmen E. Henderson (Doc. 49) be, and the same hereby is, adopted as the Order of this Court;
3. The Petition for a Writ of Habeas Corpus (Doc. 4) be, and the same hereby is denied with prejudice; and
4. No Certificate of Appealability shall issue.

SO ORDERED.

/s/James G. Carr
Sr. U.S. District Judge
DATE: 5/7/2024